attached property can be determined by this method. In two states alone, so far as we have discovered, Nebraska (*Dunker* v. *Jacobs,* (1907), 79 Neb. 435), and New Mexico (*Meyer & Sons Co.* v. *Black,* (1888), 4 N. Mex. 352), has this use of the remedy of intervention under general intervention statutes like that in Michigan been disapproved. E. R. S.

LIABILITY OF MASTER FOR NEGLIGENCE OF SERVANT RETURNING FROM PERSONAL ERRAND.—It is clearly established by a long and uniform line of decisions that a master is liable for the result of his servant's negligence when the servant is acting within the scope of his employment. See collection of the judicial statements of this rule in LABATT ON MASTER AND SERVANT, Vol. 6, pages 6695 to 6698. This rule is obviously founded on the great principle of social duty, that every man, in the management of his own affairs, whether by himself or by his agents or servants, shall so conduct them as not to injure another; and if he does not, and another thereby sustains damage, he shall answer for it. *Farwell* v. *Boston & W. R. Corp.,* 4 Met. (Mass.) 49, 55. It is not the rule itself, however, but its application, that gives rise to doubt in determining particular cases. The difficulty is in deciding when the servant is, and when he is not, acting within the scope of his employment, and it seems doubtful if any fixed formula could be worked out that would solve the question in all cases. With reference to establishing such a criterion of liability, it has been laid down that the servant's agency extends to doing everything reasonably necessary for the efficient performance of his master's business in the station to which his master has appointed him. *Cullimore* v. *Savage South Africa Company,* [1903], 2 I. R. 589. But such an attempt to establish a formula of liability cannot be of any great assistance in deciding cases, for it still leaves the question of reasonable necessity to be determined.

In a recent New York case, *Riley* v. *Standard Oil Co. of N. Y.,* (1921) 132 N. E. 97, a truck driver was ordered by the master to go from the mill to the freight yards for the purpose of loading some paint, and to return immediately. After loading the truck the driver found some waste pieces of wood which he loaded on the truck and carried to his sister's house, four blocks in the opposite direction. He started to return, on a course that would carry him past the freight yards, and before reaching the yards he negligently ran down the plaintiff. It was held, by a divided court, that the servant must be deemed on his master's business at some point in the return, which point, in view of all the circumstances, he had reached.

In an extremely forceful dissenting opinion Justice McLaughlin says, after speaking of the result reached by the majority of the court:

> "I am unable to see how this conclusion can be reached as a matter of law. Nor do I think the facts would justify a finding to this effect. The uncontradicted facts show, as it seems to me, that Million, at the place where and time when the accident occurred, was not acting for the defendant. * * * He was doing an independent act of his own, and outside the service for which he had been employed."

The dissenting opinion would seem to present the better view on principle, and it is interesting to note the state of the authorities on this question. A marked conflict of authority is shown by an examination of the cases, even in the New York decisions. The case of *Jones* v. *Weigand,* 119 N. Y. Supp. 441, cited in the majority opinion, seems to support the conclusion reached, though in that case the driver merely took a circuitous route in reaching his destination, the purpose of his detour being to see a friend. *Williams* v. *Koehler et al.,* 58 N. Y. Supp. 863, seems to support the principle case. See also *Geraty* v. *National Ice Co.,* 160 N. Y. 658. In *Riordan* v. *Gas Consumers' Ass'n,* 4 Cal. App. 639, the master was held liable for injuries caused by a runaway horse which his servant, after having driven it to his own home during the lunch hour for his own accommodation, had negligently failed to fasten. But in that case the decision went off on the ground that the servant had charge of the horse for the defendant during the noon hour as well as during working hours. On almost the same state of facts the Supreme Court of Massachusetts has held the master not liable. *McCarthy* v. *Timmins,* 178 Mass. 378.

The case of *Schoenherr* v. *Hartfield,* 158 N. Y. Supp. 388, seems to be in direct conflict with the principal case. In that case the servant had taken the master's car for the purpose of visiting his wife. While returning, the car struck and killed the plaintiff's testator, and it was held that the owner was not liable. *Danforth* v. *Fisher,* 75 N. H. 111, is directly in point, and supports the view taken in *Schoenherr* v. *Hartfield, supra.* It was there held that where, at the time of the accident, the chauffeur is returning from an errand of his own to reach the place to which he had been directed to take the machine, the owner is not liable. To the same effect are *Provo* v. *Conrad,* 130 Minn. 412, and *Patterson* v. *Kates,* 152 Fed. 481. See also note in L. R. A. 1916 A957.

In *Pittsburgh, C. & St. L. R. Co.* v. *Kirk,* 102 Ind. 399, it was laid down by the court that "where a servant steps aside from his master's business, and does an act not connected with the business, which is hurtful to another * * * the master is not liable for such act." If this be the correct rule, it seems difficult to justify the principal case, for here the servant had stepped aside from his master's business to do an errand of his own not in any way connected with his employment. The court evidently held the view that the servant re-entered the master's service the moment he started on his return journey, and that there was no distinction between the facts presented and the case where the servant merely makes a detour in reaching his destination. It must be admitted that this view has some authority to support it, but the view taken in the dissenting opinion seems to be with the weight of authority. P. W. G.